

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:

Numbering Resource Optimization

CC Docket 99-200

Implementation of the Local
Competition Provisions of the
Telecommunications Act of 1996

CC Docket No. 96-98

**REPLY COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION AND OF THE PEOPLE OF THE STATE OF CALIFORNIA
ON ITS PETITION FOR AUTHORITY TO IMPLEMENT
TECHNOLOGY-SPECIFIC OVERLAY AREA CODES**

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these Reply Comments to the Federal Communications Commission (FCC or Commission) on our Petition for Authority to Implement Technology-Specific Overlay Area Codes (Petition), filed September 27, 2002. On October 24, 2002, the Commission released a Public Notice (DA 02-2845) seeking comments on the Petition. In accordance with the Public Notice, CPUC herein responds to a number of issues raised by the wireless, messaging/paging and local exchange carriers in their Comments.

As stated in our Petition, the CPUC requests authority from the Commission to implement two technology-specific or specialized overlays (SO) in Southern California, one SO covering the 310/213/323/562 numbering plan areas (NPAs) and the other covering the 909/714 NPAs.¹ In light of the projected exhaust dates of the 310 and the 909 NPAs, the CPUC requests the Commission to act expeditiously on the Petition.

I. CALIFORNIANS STRONGLY OPPOSE AN ALL-SERVICES OVERLAY.

The wireless industry² opposes the CPUC's SO proposal and asserts that the CPUC instead should promptly implement an all-services overlay.³ Although an all-services overlay certainly is an available option for area code relief, just as is a geographic split, Southern Californians strongly oppose an all-services overlay. Since 1999, they have repeatedly stated to the CPUC that they do not want an all-services overlay and that the CPUC should instead move the wireless and non-geographic services into a separate overlay area code to alleviate the area code crisis in Southern California.⁴

¹ Petition of the California Public Utilities Commission and of the People of the state of California for Authority to Implement Technology-Specific Overlay Area Codes and Request for Expedited Treatment (CPUC Petition), filed September 27, 2002, p. 4.

² The wireless carriers/organizations that submitted comments include Nextel Communications, Inc. (Nextel), Sprint, Verizon Wireless, Cellular Telecommunications and Internet Association (CTIA), Cingular Wireless, AT&T Wireless, Inc., United States Cellular Corporation (USCC), T-Mobile U.S.A., Inc., and Weblink Wireless, Inc. Other carriers that submitted comments are Onstar Corporation, j2 Global Communications, Inc., New York Department of Public Utilities Service, and The Utility Reform Network.

³ Verizon Wireless Comments, p. iii, 19; AT&T Wireless Comments, p. 1; CTIA Comments, p.1; Cingular Wireless Comments, p. 3

⁴ This sentiment has been communicated to CPUC staff and Commissioners in e-mails, at numerous public meetings, and in telephone calls (or messages).

Just last month, a number of community group representatives attending a public meeting in El Segundo pertaining to the 310 area code again urged the CPUC to take all steps to keep the 310 area code intact. They told us that they strongly support the CPUC's SO proposal.⁵

II. IMPLEMENTATION OF THE SOS WILL NOT BE COSTLY OR BURDENSOME FOR THE WIRELESS CARRIERS.

Some wireless commenters argue that the CPUC's proposal should be rejected because the costs of the SOs outweigh the benefits. Specifically, Verizon wireless asserts that the SOs will affect approximately 3 million wireless customers combined in the 310 and 909 area codes, and will require the wireless carriers to reprogram all of the 3 million cellular handsets.⁶

Even if the SOs affect 3 million wireless customers in the two area codes combined, the SO proposal is a better option than a geographic split or an all-services overlay. If a geographic split or an all-service overlay were implemented, an estimated three to four million customers in each of the two affected area codes, the 310 and the 909 NPAs, would be affected. Thus, twice the number of customers required by the SO proposal to take an area code change would have to get a new area code in the event of a geographic split. In addition, when an existing area code is split, customers who retain

⁵ Comments of the South Bay Association of Chambers of Commerce, Friends with Barriers/Amigos Sin Barreras' November 25, 2002 letter to California Congresswoman Jane Harmon, Arjay Communications' November 25, 2002 Testimony to Congresswoman Jane Harmon, Remarks of Home Witkowsky, Councilwoman for city of Torrance to Congresswoman Jane Harmon, David Brudney & Associates Electronic Mail to Congresswoman Jane Harmon dated November 22, 2002

the current area code must adapt to the fact that many of the numbers they call will be in a new area code. Hence, it would be better to implement a SO since it would affect fewer customers than would a geographic split or an all-services overlay.

The wireless industry also argues that it would be too costly and burdensome to reprogram cellular handsets.⁷ The CPUC acknowledges that cellular handsets would need to be reprogrammed. However, current cellular technology does not require wireless carriers to manually reprogram all handsets, thus reducing the costs for carriers and the inconvenience for customers. Representatives of the wireless industry have informed CPUC staff in informal meetings held to discuss the SO proposal, that digital cellular handsets can be reprogrammed from a remote location, and that only analog cellular handsets require a manual reprogramming by the carrier. The wireless representatives also confirmed, without providing exact figures, that the percentage of digital telephones is increasing daily, while the percentage of analog devices is diminishing as new customers take service and existing customers trade an analog for a digital device. Therefore, plainly, reprogramming cellular handsets will not be nearly as burdensome as the wireless carriers would like the FCC to believe.

III. THE CPUC'S PROPOSAL DOES NOT PROHIBIT CUSTOMERS FROM PORTING THEIR PHONE NUMBERS ONCE THE WIRELESS CARRIERS HAVE DEPLOYED LOCAL NUMBER PORTABILITY.

⁶ Verizon Wireless Comments, p. 13

Some of the wireless commenters argue that it is technically nonsensical to implement the SOs because wireless carriers will have deployed Local Number Portability (LNP) in November, 2003.⁸ Although the current scheduled date for wireless LNP implementation is November 24, 2003, it is not certain that wireless carriers will in fact be LNP-capable by that date. The wireless industry has sought and received from the FCC five extensions of the LNP compliance deadline. The last request, made in July 2001, sought permanent forbearance of the FCC LNP requirement for wireless carriers. It is not unreasonable to anticipate that the wireless industry will seek yet another extension, or perhaps make another request for permanent forbearance. In addition, the FCC currently is considering the possibility of allowing wireless carriers to deploy LNP only upon receipt of a bona fide request for a customer change of carrier. Should the FCC adopt that policy, wireless carriers will have yet more time to deploy LNP.

Even if wireless carriers become LNP-capable on November 24, 2003, it is reasonable to implement the SOs because the CPUC's SO proposal would not prohibit existing wireline or wireless customers in the underlying pre-existing NPAs or the new overlay NPAs, from porting their numbers from one carrier to another carrier. In other words, the SOs would not affect customers' ability to enjoy the benefits of LNP. For example, a wireline customer in the 310 NPA would be able keep his/her 310 number and port her number from a wireline to a wireless carrier once the wireless industry

⁷ Verizon Wireless Comments, p. 13; Sprint Comments, pp. 7, 10; AT&T Wireless Comments, p. 5

⁸ Sprint Comments p. 16; CTIA p. 7

becomes LNP-capable. That customer would not be prohibiting from porting his/her 310 NPA number from a wireline carrier to a wireless carrier and vice-versa. If, however, that customer wished to initiate new wireless service, that customer would be required to get a number from the new overlay NPA during the two-year period when the SO is in effect. After the SO sunsets, however, that customer would be able to get a new wireless number, either from the 310 NPA or the new overlay area code. In addition, wireless carriers would be required to take new numbering resources from the SOs, and not from the underlying NPAs.

IV. THE TWO-YEAR PERIOD FOR THE SOS IS REASONABLE AND CONSISTENT WITH THE FCC'S PREFERENCE FOR A TRANSITIONAL OVERLAY.

Verizon Inc. and Verizon Wireless state that CPUC's two-year proposal is not practical because it will take approximately 12 to 18 months to implement the SOs.⁹ These carriers argue that after they implement, there will only be a few months left in a new SO for the customers to enjoy the SOs. The Verizon carriers apparently misunderstand the CPUC's proposal, which is for the SOs to last two years from the date the NPAs open, not from the date the FCC grants the CPUC's petition. Thus, if the petition is granted in March 2003, and the overlay area codes open by December 2003, the two SOs would remain in place through December 2005.

⁹ Verizon Comments, p. 4; Verizon Wireless Comments, p. 13

In addition, the CPUC deems suspect carriers estimates of 12 to 18 months to implement the SOs. On numerous previous occasions, in comments and in industry meetings, carriers have asserted that an all-services overlay would take but 3 months to implement, and contrasted that estimate with the year they claimed was needed to split an area code. The CPUC recognizes that a SO is different from an all-services overlay and likely will take longer than 3 months to implement. However, the CPUC does not believe a SO would require 9 to 15 months more to implement than an all-services overlay. If the carriers believe the SOs should last more than two years, the CPUC would certainly be amenable to extending the SO beyond the two-year period proposed in our Petition.

Some commenters also state that a two-year period for the SOs is arbitrary.¹⁰ To the contrary, the CPUC proposal is wholly reasonable as it complies with the FCC's preference for a "transitional" overlay. As stated in our Petition, the Commission in the *Third Report and Order* held that it prefers SOs to be transitional in nature because transitional SOs limit the potentially discriminatory effects associated with permanent SOs.¹¹ At the same time, the FCC did not suggest a range for a reasonable transition.

V. AN AREA CODE CHANGE DOES NOT CONSTITUTE A TAKE-BACK OF CUSTOMER NUMBERS

¹⁰ Verizon Wireless Comments, pp. 12-13; Cingular Wireless Comments, p.13

¹¹ Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (Third Report & Order), ¶ 84.

The majority of the commenters argue that an area code change constitutes a number take-back.¹² Again, as stated in our Petition, the FCC has not formally defined a “take-back” of customer number, but traditionally the industry view has been that a take-back occurs when the customer holding a number must undergo a seven-digit number change.¹³ This could occur, for example, in the event of a boundary realignment as the means of providing area code relief. The customers who, in effect, move from one side of the area code boundary to the other not only have a new area code, but also a new seven-digit number in the new area code. Consequently, California sees an area code change as comparable to implementing an area code split, which would require all customers in the geographic area covered by the new NPA to take an area code change only, but not to take a new seven-digit number as well. Since the FCC rules are unclear on this issue, we defer to the Commission to clarify what constitutes a number take-back and whether an area code changes falls into that category.

¹² Verizon Wireless Comments, p. 3; Sprint Comments, p. 9; USCC Comments, p. 4; AT&T Wireless Comments, p. 6; Cingular Wireless Comments, p. 5

¹³ CPUC Petition, p. 7

VI. TEN-DIGIT DIALING IS NOT NECESSARY.

The majority of the commenters also oppose the CPUC's request for a waiver of the 10-digit dialing requirement in the new overlay NPAs.¹⁴ They state that 10-digit dialing is necessary to ensure competitive neutrality between wireline and wireless carriers, and to prevent possible routing problems. Specifically, some of the wireless carriers state that 7-digit dialing has resulted in technical and routing problems in New York because some NXXs in the underlying NPAs were identical to NXX codes in the overlay NPAs.¹⁵

The CPUC is requesting authority to implement 7-digit dialing in the overlay NPAs in response to the strong opposition in Southern California to 10-digit dialing. In 1999, when the CPUC initiated 10-digit dialing as part of the process of opening an all-services overlay area code over the 310 NPA, the public repeatedly objected vehemently and vigorously to the 10-digit dialing requirement¹⁶. The public reiterated its opposition to the 10-digit dialing just last month in a community meeting in Los Angeles.¹⁷ The elderly and the frail especially, urged us not to implement a 10-digit

¹⁴ Verizon Wireless Comments, p. 5; Sprint Comments, p. 9; Cingular Comments, p. 11

¹⁵ Nextel Comments, pp. 3, 8; AT&T Wireless Comments, p. 14

¹⁶ The president of the CPUC at the time, Richard Bilas, stated at a regular CPUC meeting that implementation of the overlay in Los Angeles and the associated 10-digit dialing requirement generated more e-mails to his office than any other issue before the CPUC up to that point.

¹⁷ Friends with Barriers/Amigos Sin Barreras' November 25, 2002 letter to California Congresswoman Jane Harmon, Arjay Communications' November 25, 2002 Testimony to Congresswoman Jane Harmon, Remarks of Home Witkowsky, Councilwoman for city of Torrance to Congresswoman Jane Harmon

dialing requirement as that would be extraordinarily difficult for them. They urged us to take all steps to maintain 7-digit dialing.

Furthermore, as stated in the CPUC Petition, our request is in accordance with California law. The California Legislature, in response the Californians' opposition to the 10-digit dialing requirement, enacted Public Utilities (P.U.) Code section 7943, subsequent to the passage of the 1996 Federal Telecommunications Act.¹⁸ Subsection (b) of P.U. Code § 7943 requires the CPUC to seek from the FCC authority to “order telephone corporations to assign telephone numbers dedicated to wireless and data usage to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes”¹⁹. (Emphasis added.)

In accordance with that statutory requirement, the CPUC seeks in its Petition authority from the FCC to allow continued use of seven-digit dialing within each of the existing area codes to be covered by the two new SOs, as well as within each of the SOs.

Additionally, even if 7-digit dialing may have resulted in routing problems in New York, the CPUC does not anticipate that those routing problems will occur in California because the proposal does not allow for duplicate NXX codes to be assigned in the new SO. Under the California SO proposal, once the wireless NXX codes from the 310 are moved into the SO, for example, those NXX codes become “assigned” in the SO.

¹⁸ CPUC Petition, p. 10

¹⁹ The CPUC first sought authority from the FCC to establish a technology-specific area code in a petition filed with the Commission on April 23, 1999. The FCC responded to that petition in the *Third Report & Order*. (See ¶ 67.)

NANPA would not then assign the same NXX code to another carrier, just as NANPA today does not assign duplicate NXX codes in the same NPA. Further, the utilities have previously told the CPUC that there should be no routing problems with seven-digit dialed calls in an overlay. Indeed, Pacific Bell and Verizon (then GTE California), among others, have actively supported implementation of an overlay with 7-digit dialing in California as an alternative to a split. In any event, the CPUC certainly would work closely with the industry to make sure there are no technical or routing problems due to seven-digit dialing.

Sprint also points out the 10-digit dialing waiver disadvantages wireless customers more than wireline customers because it would require wireless customers to dial 10-digits more often than the wireline customers.²⁰ Whether a wireless customer in the SO would have to dial more 10-digit numbers than a wireline customer would depend entirely on the customer's calling patterns, and whether the majority of the wireless customer's calls constitute intra-wireless or wireless-to-wireline calls. Certainly, if the majority of the calls are to other wireless customers within the overlay NPA, that customer would not be dialing many 10-digit calls.

Furthermore, even if the majority of a wireless customer's calls are wireless-to-wireline, the phone number programming capability of today's cellular phones allows that customer to store all of her family and friends' phone numbers, thereby eliminating the need to dial-in all of the digits. The phone number storage capability avoids the need

²⁰ Sprint Comments, p. 7

for wireless customers to memorize or manually dial in the phone numbers. We note that the advocates of an all-services overlay tout the availability of wireline telephone sets, which can be programmed to dial frequently-called numbers. While this is true of many wireline telephones, it is true of all digital wireless telephones as well.

Many of today's wireless handsets are also equipped with a voice command function, which simplifies the calling process even more by allowing wireless customers to make calls via a voice command. Hence, even if the SOs result in wireless customers having to dial 10-digits more often than wireline customers, the modern cellular technology has many features and functions that eliminates the need for the wireless customers to manually key in all of 10-digits.

VII. THE CPUC PLANS TO WORK CLOSELY WITH THE UTILITIES TO ENSURE A SEAMLESS TRANSITION FOR CUSTOMERS.

J2 Global Communications, Inc., a unified messaging provider states that it would be difficult to identify "transparent" numbers because those numbers are not designated a special class of service by the carriers.²¹ We understand this is one of many technical issues that will need to be resolved before the SOs are implemented. Again, as stated in our Petition, the CPUC plans to work closely with the industry so that all of these issues are addressed fully and adequately to ensure a smooth transition for the customers. Further, in case it was not clear in our petition, we repeat that the proposal to put

²¹ j2 Global Comments, p. 3

transparent or non-geographic numbers into the SOs would apply prospectively only; no currently assigned transparent numbers would be moved into the SOs.

VIII. CONCLUSION

For the foregoing reasons, the FCC should grant the CPUC authority to implement two specialized overlays in Southern California. We urge the FCC to act expeditiously on our Petition since the 310 and the 909 NPAs are projected to exhaust next year.

Respectfully submitted,

GARY M. COHEN
HELEN M. MICKIEWICZ
LIONEL B. WILSON
SINDY J. YUN

By: /s/ SINDY J. YUN

Sindy J. Yun

Attorneys for the People of the
State of California and the
California Public Utilities
Commission

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1999
Fax: (415) 703-4432

December 10, 2002